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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY BENCH SESSION

Chicago, Illinois  
June 6, 2012

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

MR. DOUGLAS P. SCOTT, Chairman (telephonically)

MS. LULA M. FORD, Commissioner

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MS. ANN McCABE, Commissioner

MR. JOHN T. COLGAN, Commissioner  
(via videoconference)

SULLIVAN REPORTING COMPANY, by  
Auhdikiam Carney, CSR  
License No. 084-004658

1           COMMISSIONER FORD: Pursuant to the Provisions  
2 of the Illinois Open Meetings Act, I now convene a  
3 regularly scheduled Bench Session of the Illinois  
4 Commerce Commission. With me in Chicago are  
5 Commissioners O'Connell-Diaz and McCabe. With us in  
6 Springfield is Commissioner Colgan. I am  
7 Commissioner Ford.

8                       We have a quorum.

9                       Chairman Scott is available to  
10 participate by telephone today. Per Commission  
11 rules, we must vote to allow Chairman Scott to  
12 participate by phone.

13                      I will make a motion to allow Chairman  
14 Scott to participate by phone.

15                      Is there a second?

16                      COMMISSIONER O'CONNELL-DIAZ: Second.

17                      COMMISSIONER FORD: It's been moved and  
18 seconded.

19                      All in favor say "aye."

20                      (Chorus of ayes.)

21                      Any opposed?

22                      (No response.)

1                   The vote is 4-0 and we will allow  
2 Chairman Scott to participate by phone in today's  
3 Bench Session.

4                   Before moving into the agenda,  
5 according to Section 1700.10 of the Illinois  
6 Administrative Code, this is the time we allow the  
7 members of the public to address the Commission.  
8 Members of the public wishing to address the  
9 Commission must notify the Chief Clerk's Office at  
10 least 24 hours prior to the Commission meeting.  
11 According to the Chief Clerk's Office, we have no  
12 requests to speak at today's Bench Session.

13                   Turning now to the Public Utilities  
14 Agenda, we have minutes to approve from the May 16th  
15 Bench Session. I understand amendments have been  
16 forwarded.

17                   Is there a motion to amend the  
18 minutes?

19                   COMMISSIONER O'CONNELL-DIAZ: So moved.

20                   COMMISSIONER FORD: Is there a second?

21                   COMMISSIONER McCABE: Second.

22                   COMMISSIONER FORD: It's been moved and

1 seconded.

2 All in favor say "aye."

3 (Chorus of ayes.)

4 Any opposed?

5 (No response.)

6 The vote is 5-0 amending the minutes.

7 Is there a motion to approve the

8 minutes as amended?

9 COMMISSIONER O'CONNELL-DIAZ: So moved.

10 COMMISSIONER FORD: Is there a second?

11 COMMISSIONER McCABE: Second.

12 COMMISSIONER FORD: It's been moved and

13 seconded.

14 All in favor say "aye."

15 (Chorus of ayes.)

16 Any opposed?

17 (No response.)

18 The vote is 5-0 approving the amended

19 minutes.

20 We will begin with the Electric

21 section of today's agenda.

22 Item E-1 is Docket No. 10-0519. This

1 matter concerns a review of whether Ameren Illinois  
2 met the energy efficiency goals for plan year two as  
3 set forth in Section 8-103(i) of the Illinois Public  
4 Utilities Act. ALJ Haynes recommends entry of an  
5 Order finding that Ameren Illinois has complied with  
6 their portion of the annual energy efficiency goals.

7 Is there a motion to enter the Order?

8 COMMISSIONER O'CONNELL-DIAZ: So moved.

9 COMMISSIONER FORD: Is there a second?

10 COMMISSIONER McCABE: Second.

11 COMMISSIONER FORD: It's been moved and  
12 seconded.

13 All in favor say "aye."

14 (Chorus of ayes.)

15 Any opposed?

16 (No response.)

17 The vote is 5-0 and the Order is  
18 entered. We will use this 5-0 vote for the remainder  
19 of the Public Utilities Agenda unless otherwise  
20 noted.

21 Items E-2 through E-7 may be taken  
22 together. These are customer complaints regarding

1 billing and charges filed with this Commission  
2 against Commonwealth Edison Company. ALJs Sainsot,  
3 Benn, Riley, and Teague recommend dismissing the  
4 complaints with prejudice.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the Orders are entered  
10 and the complaints are dismissed.

11 Items E-8 through E-10 may be taken  
12 together. These are petitions for confidential  
13 treatment for a period of two years for information  
14 contained in annual recertification reports. ALJ  
15 Yoder recommends entry of Orders dismissing these  
16 dockets since the matters are now moot.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Orders are entered  
22 and the dockets are dismissed.

1                   Item E-11 is Docket No. 12-0174. This  
2 concerns an application by BlueStar Energy Services  
3 seeking confidential treatment of portions of their  
4 2011 Answer Time/Abandoned Call Report. ALJ Yoder  
5 recommends entry of an Order granting the requested  
6 relief for two years.

7                   Is there any discussion?

8                   (No response.)

9                   Any objections?

10                  (No response.)

11                  Hearing none, the Order is entered.

12                  Items E-12 through E-17 will be taken  
13 together. These are petitions for confidential  
14 treatment for a period of two years for information  
15 contained in the annual reports. ALJs Yoder  
16 VonQualen, Riley, Haynes, and Hilliard recommend  
17 entering Orders granting the requested relief.

18                  Is there any discussion?

19                  (No response.)

20                  Any objections?

21                  (No response.)

22                  Hearing none, the Orders are entered.

1                   Item E-18 is Docket No. 11-0492. This  
2 is a petition by MidAmerican Energy Company seeking  
3 an Order from the Commission recommending delineation  
4 of the transmission and local distribution  
5 facilities. ALJ Baker recommends entry of an Order  
6 where the Commission recommends to FERC the revised  
7 2011 delineation proposed by the Company.

8                   Is there any discussion?

9                   (No response.)

10                  Any objections?

11                  (No response.)

12                  Hearing none, the Order is entered.

13                  Item E-19 is Docket No. 12-0276. This  
14 item concerns a Joint Petition for approval of  
15 residential customer release filed by Corn Belt  
16 Energy Corporation and Ameren Illinois Company. ALJ  
17 VonQualen recommends entry of an Order granting the  
18 requested relief.

19                  Is there any discussion?

20                  (No response.)

21                  Any objections?

22                  (No response.)

1                   Hearing none, the Order is entered.

2                   Items E-20 through E-25 may be taken  
3 together. These matters concern applications seeking  
4 authority to operate as an Agent, Broker, or  
5 Consultant engaged in assisting end users for  
6 electricity and power in the State of Illinois under  
7 Section 16-115C of the Public Utilities Act. ALJ  
8 Albers recommends granting the requested Certificate  
9 of Service Authority.

10                   Is there any discussion?

11                   (No response.)

12                   Any objections?

13                   (No response.)

14                   Hearing none, the Orders are entered.

15                   Moving on to the Gas section of  
16 today's agenda.

17                   Item G-1 is Docket No. 11-0559. This  
18 matter concerns a joint application filed by Atmos  
19 Energy Corporation and Liberty Energy Corporation  
20 seeking approval for a proposed reorganization. We  
21 will not be voting on this matter today and it will  
22 be held for disposition at a future Commission

1 proceeding, however, I believe there are a couple of  
2 questions regarding that docket.

3 COMMISSIONER McCABE: The Company made a  
4 submission on May 16th --

5 COMMISSIONER FORD: Who's the ALJ for this  
6 docket?

7 JUDGE WALLACE: Judge Yoder.

8 COMMISSIONER FORD: Judge Yoder, are you  
9 available?

10 JUDGE YODER: Yes.

11 COMMISSIONER McCABE: I was just curious on the  
12 timing of the Company's May 16th submission regarding  
13 Condition 8 and whether that was concurrent or before  
14 or after the Staff's BOE? And, in addition, whether  
15 that submission helped allay the Staff's concerns?

16 JUDGE YODER: I do not believe Staff remarked  
17 on that. That was after briefs on exceptions --  
18 reply beliefs on exceptions were filed the same date  
19 that Atmos and Midstates filed their docket which  
20 purported to satisfy Condition 8.

21 COMMISSIONER McCABE: Okay.

22 JUDGE YODER: Staff didn't really have a

1 concern on that. The parties had both agreed to that  
2 condition and therefore Atmos and Midstates -- or I  
3 guess in this case, Liberty Energy was filing their  
4 documents to indicate they had satisfied Conditional  
5 8 which indicates it has to be satisfied prior to the  
6 closing of the reorganization.

7 COMMISSIONER FORD: Are you pleased with that?

8 COMMISSIONER McCABE: Yes.

9 COMMISSIONER FORD: Thank you.

10 Items G-2 and G-3 will be taken  
11 together. These matters concern petitions filed by  
12 North Shore Gas Company and Peoples Gas Light and  
13 Coke Company seeking approval of their first Rider  
14 UEA. ALJ Wallace recommends entry of an Order  
15 approving the reconciliations.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the Orders are entered.

21 Item G-4 is Docket No. 11-0710. This  
22 matter concerns proposed contracts between Chicago

1 Clean Energy Incorporated, Ameren Illinois Company,  
2 and the Northern Illinois Gas Company. The proposed  
3 contracts are regarding the purchase and sale of  
4 substitute natural gas under provisions of Illinois  
5 Public Act 97-0096. At issue now is a Petition for  
6 Interlocutory Review and approval of an Order on  
7 Rehearing. We will hold the Order on Rehearing issue  
8 for a future Commission proceeding with regard to  
9 Petition for Interlocutory Review.

10 Is there a motion to deny  
11 interlocutory review?

12 COMMISSIONER O'CONNELL-DIAZ: So moved.

13 COMMISSIONER FORD: Is there a second?

14 CHAIRMAN SCOTT: Second.

15 COMMISSIONER FORD: It's been moved and  
16 seconded.

17 All in favor say "aye."

18 (Chorus of ayes.)

19 Any opposed?

20 (No response.)

21 The vote is 5-0 and interlocutory  
22 review is denied.

1           COMMISSIONER O'CONNELL-DIAZ:   Commissioner  
2   Ford, if I just could comment.  I just want to state  
3   that I agree with the ruling of the -- as I believe  
4   the rest of the Commissioners do with regard to the  
5   Chief Judge's ruling on this matter.

6                   Back in February we cautioned counsels  
7   to follow the rules in this case.  I think counsel  
8   needs to go back and read the rules.  We want to have  
9   a situation at the Commission where due process is  
10  afforded all parties that bring matters to the  
11  Commission.  What is before us would frustrate that  
12  goal of what our rules have in them with regard to  
13  the filing of testimony attached to briefs.

14                   I would also suggest that if this was  
15  the Circuit Court, there would be sanctions that  
16  would be filed and found by the Circuit Court.  So to  
17  all parties that come to the Commission, we want to  
18  afford everyone due process and that only comes with  
19  following of the rules that we have in our  
20  administrative procedures.  And the finding of the  
21  ALJ went through this very carefully and I believe  
22  was correct.

1                   So I just wanted to make sure people  
2 realize that when they come to the Commission with  
3 different -- insufficient and noncompliant filings.

4                   Thank you.

5                   COMMISSIONER FORD: Thank you, Commissioner.

6                   Any other discussion?

7                   (No response.)

8                   Items G-5 through G-8 may be taken  
9 together. These matters concern customer complaints  
10 as to billing/charges against Just Energy, NICOR Gas  
11 Company, and Peoples Gas Company. ALJs Benn and  
12 Teague recommend that the complaints be dismissed  
13 with prejudice.

14                   Is there any discussion?

15                   (No response.)

16                   Any objections?

17                   (No response.)

18                   Hearing none, the Orders are entered  
19 and the complaints are dismissed.

20                   Item G-9 is Docket No. 12-0046. This  
21 matters concerns James Engel's complaint as to  
22 billing/charges against NICOR Gas Company. ALJ Riley

1 recommends granting the Company's motion dismissing  
2 the complaint without prejudice.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Motion to Dismiss is  
8 granted.

9 Item G-10 is Docket No. 12-0162. This  
10 item is Just Energy's petition to have its annual  
11 report kept confidential for a period of two years.  
12 ALJ Sainsot recommends the Commission enter an Order  
13 granting the requested relief.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the requested relief is  
19 granted.

20 Moving on to the Telecommunication  
21 section of today's Agenda.

22 Item T-1 is Docket No. 12-0070. This

1 item concerns an application by 365 Wireless, LLC for  
2 a certificate of local interexchange authority. ALJ  
3 Benn recommends granting the applicant the requested  
4 authority.

5 Is there any discussion?

6 (No response.)

7 Any objections?

8 (No response.)

9 Hearing none, the requested authority  
10 is granted.

11 Item T-2 is Docket No. 11-0788. The  
12 matter concerns John Redmond's complaint as to  
13 service against Frontier North, Incorporated. ALJ  
14 Yoder recommends that the Commission dismiss this  
15 proceeding without prejudice for want of prosecution.

16 Is there any discussion?

17 (No response.)

18 Any objections?

19 (No response.)

20 Hearing none, the complaint is  
21 dismissed.

22 Item T-3 is Docket No. 12-0073. This

1 matter concerns Charter Fiberlink-Illinois' complaint  
2 as to services against MCI Communications Services.  
3 Both parties have reached an agreement and ALJ  
4 VonQualen recommends that the Commission dismiss the  
5 complaint as stipulated by the parties.

6 Item T-4 is Docket No. 12-0108. This  
7 matter concerns Joseph Moore's complaint as to  
8 services against Consolidated Communication  
9 Enterprise Services. The complainant made a Motion  
10 to Dismiss their complaint and ALJ VonQualen  
11 recommends that the Commission grant that motion.

12 Is there any discussion?

13 (No response.)

14 Any objections?

15 (No response.)

16 Hearing none, the complaint is  
17 dismissed -- I'm sorry -- is there any discussion on  
18 Item T-3, 12-0073?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the complaint is

1 dismissed.

2                           Item T-5 is Docket No. 12-0264. This  
3 matter concerns Commission approval of a petition for  
4 a 9-1-1 emergency telephone system plan filed by  
5 Alexander County, Illinois. ALJ Haynes recommends  
6 that Order be entered approving the plan.

7                           Is there any discussion?

8                           (No response.)

9                           Any objections?

10                          (No response.)

11                          Hearing none, the Order is entered and  
12 the petition is granted.

13                          Item T-6 is the Illinois Commerce  
14 Commission's own motion initiating citation  
15 proceedings against Pelzer Communication Corporation  
16 and revoke their Certificate of Service Authority.  
17 Staff recommends an Order initiating the citation  
18 proceeding.

19                          Is there any discussion?

20                          (No response.)

21                          Any objections?

22                          (No response.)

1                   Hearing none, the Order is entered.

2                   Item T-7 is the Illinois Commerce  
3 Commission's own motion regarding tariff and  
4 documentation filing requirements for local exchange  
5 carriers. Staff recommends entry of an Order  
6 requiring local exchange carriers to file tariffs and  
7 documentation in response to Section 13-900.2 of the  
8 Public Utilities Act.

9                   Is there any discussion?

10                   (No response.)

11                   Any objections?

12                   (No response.)

13                   Hearing none, the Order is entered.

14                   Item T-8 is Docket No. 11-0624. This  
15 matter concerns the Illinois Commerce Commission's  
16 proposed amendments to the Secretary of State  
17 regarding standards of service and customer credits  
18 for electing providers within the Illinois  
19 Administrative Code. Petitions to Intervene were  
20 filed and granted to AT&T and the Cable Television  
21 and Communications Association. Comments were filed  
22 on the first notice rules and now CTCA seeks to have

1 oral argument.

2 ALJ Haynes recommends an Order denying  
3 oral argument and authorizing a second notice period  
4 along with submission of the proposed amendments to  
5 the Joint Committee on Administrative Rules.

6 Is there any discussion?

7 (No response.)

8 Any objections?

9 (No response.)

10 Hearing none, the Order is entered.

11 Item T-9 is Docket No. 11-0625. This  
12 is the Illinois Commerce Commission's proposed  
13 amendments to the Illinois Administrative Code  
14 regarding tariff filing. The first notice period has  
15 expired and ALJ Teague recommends entry of an Order  
16 authorizing a second notice period.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Order is entered.

22 JUDGE DOLAN: Commissioner, don't you have to

1 vote on oral arguments on T-8?

2 COMMISSIONER FORD: Which one?

3 JUDGE DOLAN: There was an oral argument  
4 request on T-8, so you have to vote.

5 COMMISSIONER FORD: Okay.

6 Is there a motion to deny oral  
7 argument?

8 COMMISSIONER O'CONNELL-DIAZ: So moved.

9 COMMISSIONER FORD: Is there a second?

10 COMMISSIONER McCABE: Second.

11 COMMISSIONER FORD: It's been moved and  
12 seconded.

13 All in favor say "aye."

14 (Chorus of ayes.)

15 Any opposed?

16 (No response.)

17 The vote is 5-0 and oral argument is  
18 denied.

19 Item T-10 is Docket 12-0175. This  
20 matter concerns Frontier North's Motion to Withdraw  
21 its tariff filing. ALJ Yoder recommends an Order  
22 dismissing the docket without prejudice and directing

1 that the tariffs filed January 19th, 2012, be  
2 withdrawn and canceled.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the docket is dismissed  
8 without prejudice and the tariffs are withdrawn and  
9 canceled.

10 Item T-11 is Docket No. 12-0242. This  
11 matter concerns an Amendatory Order to Illinois  
12 Telecommunication Access Corporation's previously  
13 approved request to decrease an annual line charge.  
14 The Amendatory Order corrects an incorrect year on  
15 Page 6. ALJ Riley recommends that the Commission  
16 enter an Amendatory Order.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Amendatory Order is  
22 entered.

1                   Item T-12 through T-16 may be taken  
2 together. Petitioners seek Orders protecting their  
3 2011 annual reports from public disclosure for a  
4 period of two years under Section 7C of the Illinois  
5 Freedom of Information Act and Section 5-109 of the  
6 Public Utilities Act. ALJs Benn and Yoder recommend  
7 that the Orders be entered granting the requested  
8 relief.

9                   Is there any discussion?

10                   (No response.)

11                   Any objections?

12                   (No response.)

13                   Hearing none, the Orders are entered  
14 and the relief is granted.

15                   Items T-17 and 18 may be taken  
16 together. These matters concern the Global Capacity  
17 Group and Global Capacity Direct's Petition to  
18 voluntarily cancel previously granted certificates of  
19 interexchange authority. ALJ Baker recommends  
20 entering an Amendatory Order canceling the  
21 certificates.

22                   Is there any discussion?

1 (No response.)

2 Any objections?

3 (No response.)

4 Hearing none, the Orders are entered  
5 and the certificates are canceled.

6 Item T-19 is Docket 11-0225. This  
7 item concerns an Amendatory Order to a previous  
8 Commission Order revoking a Certificate of Service  
9 Authority previously issued to Brian Esterman doing  
10 business as Metrotel Communications. The Amendatory  
11 Order corrects the Scrivener's error to a cited  
12 docket number. ALJ Baker recommends that the  
13 Commission enter an Amendatory Order.

14 Is there any discussion?

15 (No response.)

16 Any objections?

17 (No response.)

18 Hearing none, the Amendatory Order is  
19 entered.

20 Turning now to Water and Sewer.

21 Item W-1 is Bahl Water Corporation's  
22 filing to implement increased water rates pursuant to

1 the simplified rate case procedure. It is Staff's  
2 recommendation that the filing not be suspended.

3 Do I have a motion?

4 COMMISSIONER McCABE: So moved.

5 COMMISSIONER FORD: Is there a second?

6 COMMISSIONER O'CONNELL-DIAZ: Second.

7 COMMISSIONER FORD: It's been moved and  
8 seconded.

9 All in favor say "aye."

10 (Chorus of ayes.)

11 Any opposed?

12 (No response.)

13 The motion carries and we will not  
14 suspend the filing.

15 We have two miscellaneous items of  
16 business on today's agenda. First we have Item M-1,  
17 which is the Illinois Commerce Commission's motion to  
18 adopt amendments to Commission rules. These  
19 amendments will provide the public comments  
20 containing links to other Web sites would not be  
21 accepted for posting on the Commission Web site.  
22 Staff recommends an Order adopting these amendments.

1 Is there any discussion?

2 (No response.)

3 Any objections?

4 (No response.)

5 Hearing none, the Amendatory Order is  
6 entered.

7 Where is Heather?

8 Item M-2 is the Illinois Commerce  
9 Commission's own motion to designate Heather  
10 Jorgenson as an Administrative Law Judge. I am  
11 honored to see that Heather has moved on. As most of  
12 you know, Heather was my legal assistant for the last  
13 four and a half years and she has certainly been an  
14 excellent worker.

15 Glen and Mike, I certainly hope that  
16 you will work her well. She will be an asset to you  
17 and I certainly hate losing you, Heather. I wish you  
18 well on the dark side.

19 JUDGE WALLACE: We've started to load her up on  
20 cases already.

21 COMMISSIONER FORD: Work her.

22 COMMISSIONER O'CONNELL-DIAZ: We're going to

1 miss Heather on our side, but it's good to know that  
2 she will be right across the hallway and we'll also  
3 get to see her at Bench Sessions when we have  
4 probative questions to ask about the Orders that she  
5 presents to the Commission.

6 I've had the pleasure of working with  
7 Heather on numerous matters and projects and  
8 different things, so I have no doubt that she will  
9 succeed on that dark side, having come from the dark  
10 side. So I wish you well and congratulations and I  
11 feel you will continue to be a great asset to the  
12 Commission.

13 MS. JORGENSEN: Thank you.

14 COMMISSIONER COLGAN: I would just like to say  
15 congratulations to Heather. Heather has been with  
16 you, Commissioner, through my entire tenure here at  
17 the Commission. I know she's done you a good job and  
18 I know you're going to miss her. We're all going to  
19 miss her in that capacity, but I think you're moving  
20 on to a promising future and I wish you the very  
21 best.

22 MS. JORGENSEN: Thank you.

1           CHAIRMAN SCOTT: I just want to say I'm  
2 grateful she's staying with the Commission and the  
3 folks in Illinois are still going to get the benefit  
4 of her great talents. So, Heather, thank you very  
5 much and congratulations to you and I look forward to  
6 seeing you soon.

7           MS. JORGENSEN: Thank you.

8           COMMISSIONER FORD: Staff recommends an Order  
9 adopting a resolution designating Heather Jorgenson  
10 as an ALJ.

11                           Is there any discussion?

12           COMMISSIONER O'CONNELL-DIAZ: We might have to  
13 have rehearing on this.

14           COMMISSIONER FORD: All right.

15                           Any objections?

16                           (No response.)

17                           Hearing none, the resolution is  
18 adopted and congratulations to Heather Jorgenson for  
19 becoming an Administrative Law Judge.

20                           Our last item is a discussion of  
21 initiatives by the Organization of MISO States  
22 initiatives.

1                   Commissioner Colgan, you were going to  
2 lead this?

3                   COMMISSIONER COLGAN: Yes. Thank you,  
4 Commissioner Ford.

5                   I had my assistant, Linda Wagner,  
6 circulate some documents to everybody yesterday  
7 pertaining to this issue. As you're all aware that I  
8 recently went on the Board of the Organization of  
9 MISO States and there's going to be a June 13th  
10 meeting that will be subsequent to the MARC meeting  
11 in Des Moines, Iowa. Commissioner Robert Kenny, who  
12 chairs the MISO on the Illinois Mass Board, has asked  
13 Board members to show up at that Board meeting  
14 prepared to make decisions on certain issues without  
15 needing further discussions or deliberations with  
16 their own state commissions.

17                   The scope of those issues, just in  
18 very general terms, focus on the Entergy Operating  
19 Company's joining MISO and the resulting potential  
20 for the Entergy Regional State Committee, which is  
21 the equivalent of OMS and the Entergy footprint and  
22 their jointing of OMS. The ERSC has authority

1 relative to transmission planning and cost allocation  
2 determinations that OMS does not currently have and  
3 the most prominent issues and concerns that are going  
4 to come up at the June 13th meeting concern the  
5 nature and extent of enhanced authority that OMS  
6 should request from MISO consistent to some extent  
7 with the authority that the ERSC already has.

8                   So OMS is on the cusp of making some  
9 important decisions in the very near future and I  
10 want to be prepared to respond to President Kenny's  
11 questions with the ICC's position on this issue. And  
12 I've asked our federal staff director, Randy  
13 Rismiller, to outline these issues for us in a little  
14 more detail. And following his comments, I look  
15 forward to your feedback.

16                   Randy.

17                   MR. RISMILLER: Good morning, Commissioners.  
18 I'll try to be quick here.

19                   This Entergy deal is a bit like a soap  
20 opera with lots of characters with lots of unusual  
21 motivations. And I only bring it up because as  
22 Commissioner Colgan mentioned, you kind of need to

1 know the context to be able to give good advice on  
2 the questions that are currently going to be facing  
3 Commissioner Colgan at the meeting in Des Moines next  
4 week.

5                   We sent around a little facts sheet  
6 with a little map of Entergy in relationship to MISO  
7 and the other regions of the country. What you get  
8 out of that when you look at that, you will see that  
9 Entergy operates utility operating companies in  
10 Arkansas, Louisiana, Mississippi, Texas, and the City  
11 of New Orleans -- and we'll get to New Orleans in a  
12 little bit.

13                   You'll see that Entergy interconnects  
14 with the MISO region through one particular  
15 interconnection and that's in the boot heel of  
16 Missouri, which is Ameren service territory. You  
17 will also notice SPP is next door to Entergy. That's  
18 important for the developments here.

19                   So Entergy has asked to join MISO and  
20 they need their authorization from all their state  
21 regulators including the City of New Orleans City  
22 Council in Order to get approval to join MISO. And

1 the reason they need to do something -- Entergy needs  
2 to do something with respect to transmission and  
3 capacity planning. They have a system agreement  
4 between all the Entergy operating companies and  
5 they've had it for 30 or 40 or 50 years to share  
6 capacity building. That system agreement is expiring  
7 and it's not going to be renewed primarily because  
8 the Arkansas Commission doesn't want it to be  
9 renewed. Entergy also has a current contractual  
10 arrangement with SPP to sort of oversee certain  
11 elements of its transmission planning and  
12 transmission operations. That contract is expiring.  
13 So Entergy needs to make a move here. And the two  
14 options on the table for Entergy is join MISO or join  
15 SPP. Those are really the two most viable options on  
16 the table for Entergy Company.

17 Now, the Entergy state regulators have  
18 a regional state committee currently, it's analogous  
19 to the organization of MISO States or to OPSI with  
20 respect to MISO, PJM respectively. Similarly, the  
21 SPP states have a regional state committee known as  
22 the SPP Regional State Committee. As Commissioner

1 Colgan indicated, those two regional state committees  
2 have authorities with respect to their various RTOs  
3 or regions that is greater than -- more strong than  
4 the authority that OMS has with respect to MISO. And  
5 this is important because it's affecting the Entergy  
6 State Regulatory Commission's decisions about whether  
7 or not Entergy should join MISO because the state  
8 commissions down there don't want to lose any  
9 authority that they currently have over Entergy or  
10 any authority that they would have if Entergy were to  
11 join SPP rather than MISO.

12 And so OMS is now exploring, for that  
13 reason and a number of other ones, whether or not it  
14 should seek additional authorities, kind of in line  
15 with the authorities that either the SPP Regional  
16 State Committee has or this Entergy Regional State  
17 Committee has.

18 The other initiating factor that's  
19 causing OMS to look at this issue, among other  
20 things, is in Order 1000 FERC is strongly encouraging  
21 state regulators to step up to the plate and perform  
22 a more active and increased role in the transmission

1 planning expansion process. And in Order 1000, FERC  
2 specifically cited the role of the Entergy Regional  
3 State Committee in this regard as model. So these  
4 sort of background things lay the groundwork for why  
5 OMS is considering these changes right now.

6 The primary areas where OMS is looking  
7 at for enhanced -- potentially enhanced authority  
8 fall in these categories of transmission expansion  
9 planning, transmission cost allocation, and so-called  
10 resource adequacy, which is the issue of having  
11 sufficient generating capacity or demand resources to  
12 meet forecasted future loads. These are  
13 traditionally kind of areas and issue over which  
14 state commissions have had a lot of authority. Some  
15 of which has gravitated to FERC as industry  
16 restructuring has gone forward in the last ten years.  
17 But these are traditionally state areas of  
18 considerable responsibility. That's the reason they  
19 are on the table here.

20 There was a working group put together  
21 by OMS and the Entergy Regional State Committee to  
22 kind of look at what would enhanced authority might

1 look like. What would be the legal requirements For  
2 it? Who would we have to get direction and  
3 authorization from to pursue increased OMS authority.  
4 And so that group did a lot of work. I happened to  
5 be a member of that group on behalf of OMS.

6 The group issued what we call a draft  
7 scope document and that was approved for issuance by  
8 the OMS early in May. And we asked a bunch of  
9 questions primarily to MISO and the MISO transmission  
10 owners about these issues and we invited anybody else  
11 who wanted to kick in some ideas or thoughts to go  
12 ahead and do that. We got a whole bunch of comments  
13 back of comments back, most important of which I  
14 think are from MISO and the MISO transmission owners.

15 Just a brief summary, MISO was not  
16 effusive in their support of this idea for increased  
17 authority. They did support the idea of putting  
18 another regulator, principally from the Entergy  
19 states, on the MISO Advisory Committee, which is MISO  
20 Senior Committee. They did support an increased  
21 relationship between the OMS Board of Directors and  
22 the MISO Board of Directors, but fell short of the

1 kind of joint meetings and joint actions that the  
2 Staff working group had in mind.

3           They offered to share their Section  
4 205 filing rights, which is a critically important  
5 issue; but only in limited regards and in limited  
6 issues and on a five-year delayed basis. I'll get  
7 back to this 205 filing rights issue. The MISO  
8 transmission owners on the other hand weren't  
9 supportive of anything in this area and sort of  
10 questioned why OMS was going down this path in the  
11 first place. So we didn't get any real support  
12 there. The comments from other parties were sort of  
13 a mixed bag.

14           So this 205 filing rights thing,  
15 utilities under Section 205 of the Federal Power Act  
16 need to make filings with FERC pertaining to rates,  
17 terms and conditions, or anything affecting rates,  
18 terms, and conditions. Utilities include in this  
19 case all of the transmission utilities plus MISO.  
20 MISO is also a utility. And MISO and MISO  
21 transmission owners have figured out a way to share  
22 responsibility for various aspects of tariffs and

1 rates. What OMS is potentially looking for here is  
2 for authority from MISO and the MISO transmission  
3 owners to be able to direct MISO either in addition  
4 to or instead of a Section 205 filing that MISO would  
5 make to make the filing that OMS wants them to make.  
6 Now, Entergy Regional State Committee has this and  
7 SPP Regional State Committee has this. So that's why  
8 OMS is considering pursuing this authority. It's a  
9 really big deal and would be a really big step in  
10 responsibility for OMS.

11 The other thing OMS is looking for is  
12 how to improve and enhance the state regulators' role  
13 in the planning process. Currently the state  
14 regulators put one person, one commissioner on what's  
15 called a Planning Advisory Committee at MISO. We  
16 also have staff work that we work with the MISO  
17 Committees at the staff level, but it's all advisory.  
18 And the state regulators advisory -- the weight of  
19 that advice is officially on the books no greater  
20 than the weight of anybody else's advice. So that's  
21 an area which OMS is pursuing ways of enhancing that  
22 role.

1                   Cost allocation, I think that would  
2 fall primarily under the 205 filing rights directive  
3 authority. I think one of the main things OMS would  
4 like to be able to direct MISO on is filings with  
5 respect to transmission cost allocation. The other  
6 thing is filings with respect to the Resource  
7 Adequacy Policy.

8                   So I think that sort of tees up the  
9 background why we're at this stage. Some of the  
10 issues on which OMS is seeking enhanced authority,  
11 Commissioner Colgan said this is going to come up at  
12 the OMS Board Meeting in Des Moines on June 13th and  
13 there's going to be some decisions made and so that's  
14 why we're coming here now. I'll turn it back to you,  
15 Commissioner Colgan.

16                   COMMISSIONER COLGAN: Thank you, Randy.

17                   So I'm going to show up at this Board  
18 meeting and Chairman Kenny wants us to be prepared to  
19 vote. I think in general our position would be that  
20 we would look for the best opportunity for enhanced  
21 authority. I think there are other state  
22 Commissioners in the OMS footprint who have a

1 different take on that. I'd just like to just open  
2 it up to see if anybody has any questions or comments  
3 that you would like to ask either me or Randy.

4 COMMISSIONER McCABE: Randy and Commissioner  
5 Colgan, the transmission owners aren't that positive.  
6 Is that because they're happy with the way things are  
7 currently?

8 COMMISSIONER COLGAN: Yeah. They currently  
9 have the authority and there is some dispute really  
10 as to whether or not -- how much authority MISO, even  
11 if they wanted to, could give OMS.

12 Isn't that the case, Randy?

13 MR. RISMILLER: Yes. This authority is shared  
14 between transmission owners and MISO. MISO really  
15 wants Entergy in MISO. If you look at the map, the  
16 reason for that is that MISO lost all of the Ohio  
17 companies to PJM recently. They really need to find  
18 some transmission owners in strategically located  
19 positions to shore up their membership otherwise they  
20 sort of become questionable as a continuing viable  
21 entity. So they really need new members and Entergy  
22 is a key new member that they need and Entergy is

1 big. So MISO's life in some way depends on this  
2 going forward.

3 For the transmission owners, that's  
4 not as clear. I haven't heard them as a group really  
5 come out and say, Hey, we really like this idea of  
6 Entergy being in MISO or, We really hate it. They've  
7 sort of been neutral about this. And so that's the  
8 reason they're not really enthusiastic about giving  
9 up their authority in the first place because they're  
10 not a hundred percent convinced, as I can tell, that  
11 this whole Entergy deal would be good for them.

12 COMMISSIONER FORD: My concern, Randy, was with  
13 the State of Arkansas and their reluctance about  
14 Entergy. So that would be questionable -- the fact  
15 that they were giving them some of their power if  
16 Entergy were to go to MISO.

17 COMMISSIONER COLGAN: Commissioner Honorable  
18 has been no doubt saying that if these same rights  
19 aren't transferred as they would join OMS, that she  
20 would in know way be supportive of the merger of OMS  
21 with ERSC. And I think in general ERSC is unanimous  
22 in that regard that of course they have this

1 authority and they don't want to give that authority  
2 up. But some of the Commissioners there, including  
3 Commissioner Honorable, have been very outspoken on  
4 that issue.

5 COMMISSIONER FORD: I'm sure.

6 MR. RISMILLER: Each of the state commissions  
7 down there have authority over their utility  
8 operating company, either allow this or not allow it.  
9 As I said, including the City of New Orleans which  
10 has jurisdiction over the utility operating New  
11 Orleans. So all the regulators will have their say.

12 CHAIRMAN SCOTT: Louisiana already approved it,  
13 didn't they?

14 MR. RISMILLER: I believe Louisiana tentatively  
15 approved it subject to a demonstration of a whole  
16 host of conditions, one of which was OMS -- as I  
17 understood it, OMS having authority analogous to that  
18 which ERSC now has.

19 CHAIRMAN SCOTT: Randy, have we seen any kind  
20 of reaction -- I saw that in the trade publications,  
21 too. Has there been any kind of reaction to that  
22 conditioned approval.

1           COMMISSIONER COLGAN: Not that I've seen.

2           MR. RISMILLER: I'm not aware of any.

3           CHAIRMAN SCOTT: It's a little early yet, I  
4 think. It just happened.

5           COMMISSIONER COLGAN: So I think it's a case  
6 where MISO wants Entergy, but to bring Entergy, all  
7 the state commissions need to approve it and the  
8 state commissions have their individual people on  
9 this Regional State Committee and the Regional State  
10 Committee is saying, We don't want this to happen if  
11 we're going to lose our authority on this cost  
12 allocation, transmission planning and 205 rights.

13                       So I think, Randy, I think in general  
14 our position would be that we want to have the -- we  
15 want the most opportune position so that we would get  
16 the enhanced authority.

17           MR. RISMILLER: Yeah. My thought on this is  
18 that, quite frankly, I would like to -- if I had my  
19 druthers -- see FERC take a stronger role over some  
20 of these transmission planning issues and to be more  
21 active in reviewing and assessing the transmission  
22 plans that come out of the RTO planning process.

1                   The RTOs are supposed to be  
2     independent and supposed to produce an objective  
3     independent plan, but we all know that they're  
4     influenced by certain factors and they are obvious  
5     what they are. But, nevertheless, FERC is not really  
6     stepping up to some of the roles that I think a  
7     federal regulator ought to play in this regard. And  
8     given that, someone needs to step into the vacuum.  
9     And I think OMS and the regional regulators, state  
10    commissioners in the MISO region, are the logical  
11    entity to step up into this vacuum and to ensure that  
12    what comes out of these regional stakeholder  
13    processes at the MISO make sense for consumers  
14    involved going forward into the future. Because  
15    these are big expensive decisions with 40 or 50-year  
16    impacts and they merit some serious engagement by  
17    regulators. So, yes, that's the long way of saying,  
18    Yes, I agree with you.

19                COMMISSIONER O'CONNELL-DIAZ: Randy, with  
20    regard to the FERC Order 1000 where we're supposed to  
21    talk to our neighbors and do all this good stuff, and  
22    following up on your comment about FERC really taking

1 the bit in their teeth and acting as the federal  
2 regulator for these issues that are spread across  
3 many regions, by them not doing that and then also  
4 suggesting in their Order that that's what we should  
5 be doing, do we end up again with this kind of  
6 patchwork problem that we see and deal with on a  
7 regular basis? And how do we -- how do we get to  
8 FERC and tell them that we need to -- I don't want to  
9 say for them to do their job, but to do there job and  
10 so that we have a much more of a uniform way of  
11 dealing with these issues and we don't end up  
12 spending all this time fighting about things and not  
13 having clear cut answers. It just seems like this  
14 goes on and on and on.

15 MR. RISMILLER: As much as I would like to gang  
16 up on FERC, I'll take their side a little bit here.  
17 They're sort of between a rock and a hard place  
18 because there are a lot of parties and a lot of state  
19 commissions who would prefer to have the patchwork,  
20 as you put it, that we have experienced and are  
21 continuing to experience.

22 And so FERC was trying to balance

1 those interests who have a stake in retaining the  
2 existing status quo and those such as you expressed  
3 who would like to see a more uniformed approach to  
4 some of these things. And so they sort of had to  
5 walk a tightrope and what they've done essentially is  
6 to plead with the state regulators and the various  
7 commissions to step into this void and at least have  
8 regional consistency. And they've also required that  
9 there be these interregional processes that you  
10 indicated which each of there neighbors.

11 So I suspect each regional group of  
12 state commissions will have some interaction with  
13 their neighboring group of state commissions to try  
14 to sew those things back together again.

15 COMMISSIONER FORD: John.

16 COMMISSIONER COLGAN: So that's what's before  
17 us and I'm just going to assume that you would all  
18 agree with the positions that we've discussed and  
19 outlined here and I'll do my best to represent our  
20 best interest in that meeting and see how far we can  
21 go with this. I think there is an opportunity there  
22 for us to try and get some enhanced authority per the

1 OMS. I'm not sure what we can get because the OMS is  
2 kind of a mixed bag in terms of what some of the  
3 state commissioners think we should or should not be  
4 doing. Some seem to think we should just leave well  
5 enough alone and move forward with where we are now.  
6 We're pretty much on the other side of that. Of  
7 course, most of the other states in the MISO  
8 territory are integrated utilities and they have  
9 different priorities and processes that they're  
10 involved in and have to take care of.

11 So anyway are there any other  
12 questions that anybody wants to ask, if not, that  
13 would conclude our discussion on this?

14 COMMISSIONER FORD: Thank you, Commissioner  
15 Colgan.

16 COMMISSIONER COLGAN: You're welcome.

17 COMMISSIONER FORD: Judge Wallace, are there  
18 any other matters for us today?

19 JUDGE WALLACE: No. That's all, Commissioner  
20 Ford.

21 COMMISSIONER FORD: We will reconvene at 1:30  
22 for the Electric Policy Meeting. And since there is

1 no other business, this meeting is adjourned.

2 (And those were all the  
3 proceedings had.)

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